

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	Group Art Unit: 2157
Beams, et. al.)	
)	Examiner: Salad, Abdullahi Elmi
Serial No.: 09/934,924)	
)	Attorney Docket No: 005222.00184
Filed: August 22, 2001)	
)	Confirmation No. 9686
For: Creating a Virtual Consultant)	

AMENDED BRIEF ON APPEAL

Mail Stop: Appeal Brief-Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 41.37, Appellants submit this Appeal Brief in response to the Final Office Action mailed on February 22, 2007. A Notification of Non-Compliant Appeal Brief was mailed December 11, 2007 setting a one-month period for filing a response of January 11, 2008. Please charge any necessary fees in connection with this Appeal Brief to Deposit Account No. 19-0733.

In the Notification of Non-Compliant Appeal Brief, it is alleged that the claimed invention is not properly mapped to the independent claims. In particular, the Examiner asserts that there is no mapping for the claim limitation “dynamically adding a second virtual instructor with the first virtual instructor and the one or more users.” Appellant believes that this feature properly maps to steps 95300-95600 and is revising the Description of Independent Claims (pages 19-21) to provide the requested mapping.

The present application is a continuation of U.S. Application No. 09/305,931 entitled A System, Method and Article of Manufacture for Creating a Virtual Consultant and filed on May 5, 1999, U.S. Application No. 09/306,468 entitled A System, Method and Article of Manufacture for Creating a Virtual Classroom and filed on May 5, 1999, U.S. Application No. 09/306,022 entitled A System, Method and Article of Manufacture for Providing Multiple Instructors on an as Needed Basis and filed on May 5, 1999, and U.S. Application 09/306,466 entitled A System, Method and Article of Manufacture for Creating Interactive Simulations Utilizing a Virtual Detector with External Control Features filed on May 5, 1999. The entire disclosure of each application is incorporated by reference.

I. Real Parties in Interest

The real party in interest is ACCENTURE GLOBAL SERVICES GMBH.

II. Related Appeals and Interferences

Appellants are unaware of any appeals or interferences related to the subject appeal.

III. Status of the Claims

Claims 1-19 have been cancelled. Claims 20-57 are pending and are found in the Appendix. Claims 39-57 are withdrawn from consideration. Claims 20-38 stand rejected. No claims have been allowed.

Claims 20-38 are being appealed.

IV. Status of Amendments

No amendment after final rejection has been filed.

V. Summary of the Invention

An embodiment is directed to systems and methods that establish a virtual consultant by connecting a virtual university server and one or more users, selects a destination within the virtual university server to interact with the one or more users, couples the one or more users through the virtual university server based on the selected destination, and establishes interaction parameters for the one or more users based on the selected destination. (Page 2, lines 27-31.) The following description summarizes the invention and is subsequently followed by the specific descriptions of the independent claims 20, 29, and 30 (labeled as “**Description of Independent Claims**”).

The interaction techniques include rules for one to one correspondence and one to many. (Page 3, lines 1-5.) The destinations include a virtual classroom, administrative offices, virtual library and virtual student union. Additional support is provided for distributing grades, tests, homework materials, directory information and other classroom materials electronically.

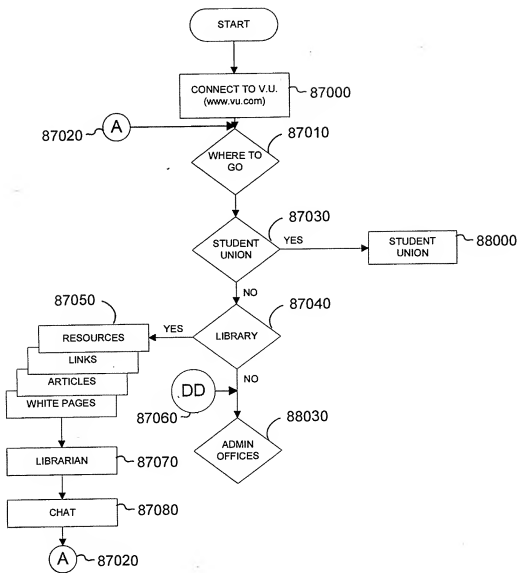
Virtual Meeting Rooms provide for a virtual meeting capability between the subscriber and a subject matter expert (SME). (Page 221, lines 7-9.) This capability also allows for a private room to be used as a work-in-process room for subscriber interactions with channel SME's.

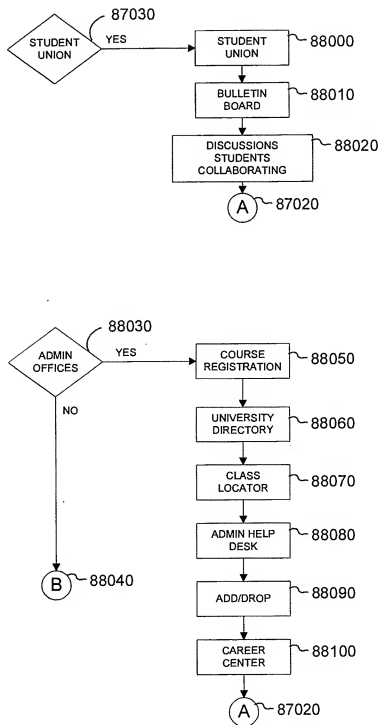
Referring to Figure 87 (as shown below), processing commences at function block 87000 when a connection is made through the internet to a website associated with the virtual university. (Page 222, lines 9-19.) A test is made at decision block 87010 to determine where the web traveler would like to venture. The first destination is the student union at decision block 87030. If the student union is the destination then at function block 88000 (as shown in Figure 88 below), the traveler enters the student union which is detailed in Figure 91 (not shown). If the traveler wants to utilize a bulletin board for various functions detailed in Figure 91, then the

bulletin board function is used at function block 88010. Finally, if the traveler wants to conduct collaborations with other persons in the virtual university, then the collaboration function is utilized at function block 88020 and control is passed back to label A 87020.

If a traveler entering the virtual university desires to use the library as detected at decision block 87040, then the various resources comprising links, articles and whitepapers are presented in function block 87050. (Page 222, lines 21-28.) Function block 87070 provides access to a librarian and function block 87080 provides access to collaboration for conversing with other virtual university travelers. A list of active virtual university active participants is provided to select collaborators from. Finally, control is passed back to label A 87020 for further travel through the virtual university. Detailed processing for the library is provided in Figure 92.

Label DD 87060 is provided to gain access to the administrative offices through decision block 88030. (Page 222, line 30- page 223, line 6.) If administrative functions are desired, then course registration is provided at function block 88050, a university directory is provided at function block 88060, a class locator is provided at function block 88070, an administrative help desk is provided at function block 88080, add/drop processing is provided at function block 88090, a career center is provided at function block 88100 and then processing is returned to label A 87020. Detailed processing for the administrative functions is provided in Figures 93 (not shown) and 94 (not shown).

**FIGURE 87**

**FIGURE 88**

Further destinations for travelers in the virtual university are provided through label B 88040 which traverses to Figure 89 (as shown below). (Page 223, lines 8-21.) In Figure 89, an instructor lookup function is provided at function block 89010. Label BB 89030 provides direct access to a professor's virtual office. Decision block 89020 searches for a particular instructor (professor) name, and if the name is found, then at function block 89040, the professor's virtual office is entered and if office hours are in effect, then a student can interact with the professor in a chat room. A Frequently Asked Questions (FAQ) is provided to assist students as shown in function block 89050. Function block 89060 provides old tests, function block 89070 provides classroom issues, function block 89080 provides classroom materials, 89090 provides class handouts, function blocks 89100 provides research topics, function block 89110 provides professor office hours, and function block 89120 provides homework assignments. Finally, at label A 87020, control is passed back for further travel through the virtual university. If the traveler desires further class access as detected at decision block 89210, then function block 89230 provides a class directory. If class access is not desired at decision block 89210, then control is passed via label A 87020 for further travel through the virtual university. Function block 89240 provides class materials, function block 89250 provides access to a student's grades, function block 89260 provides access to class announcements, function block 89270 provides access to class homework, function block 89280 provides access to tests, function block 89290 provides access to class schedules, function block 89300 provides access to a breakout room, function block 89310 provides access to research topics and function block 89320 provides access to lectures. Finally, at label A 87020 control is passed back to provide further travel through the virtual university.

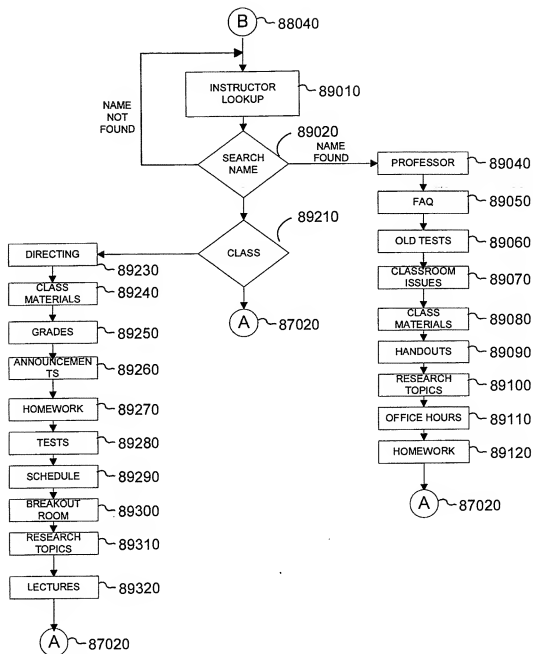
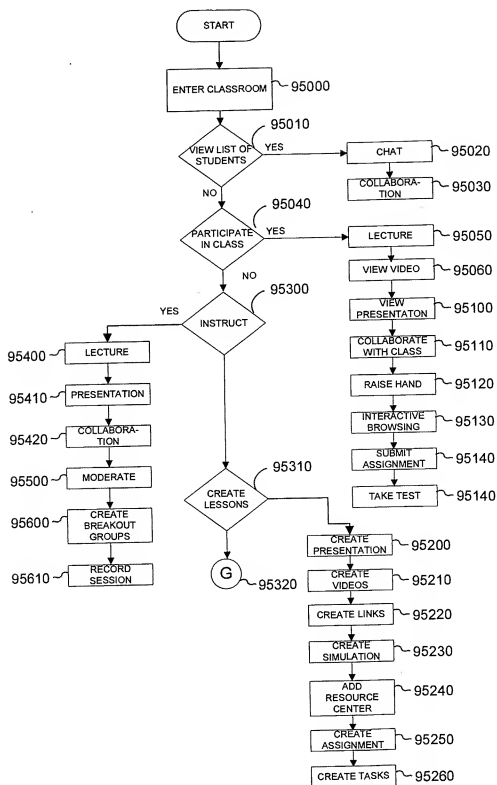
**FIGURE 89**

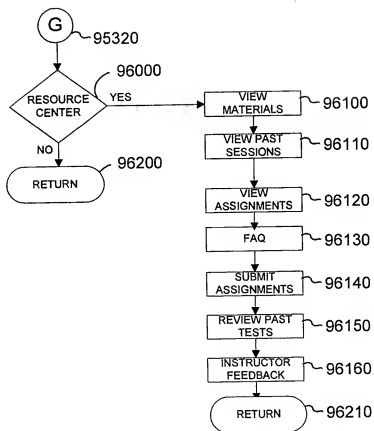
Figure 95 (as shown below) presents the detailed logic associated with virtual classroom processing in accordance with a preferred embodiment. (Page 227, lines 18-30.) Processing commences at function block 95000 when a traveler enters the classroom. A list of students is presented in decision block 95010, then a student can enter a chat room at function block 95020, or a student can enter a collaboration at function block 95030 and control is returned to label A 95001. A test is performed at decision block 95040 to determine if a student desires to participate in a class. If so, then at function block 95050 a student can listen to a lecture, at function block 95060, a student can watch a video, at function block 95100 a student can watch a presentation, at function block 95110 a student can collaborate with a class, function block 95120 a virtual hand raise to recognized for participation is handled, function block 95130 interactive browsing is performed, function block 95140 an assignment can be submitted and at function block 95150 a test can be taken and control is returned to label A 95001.

If instruction is desired as detected at decision block 95300, then a lecture can be presented in function block 95400, a presentation is displayed at function block 95410, a collaboration is initiated at function block 95420, a moderation is performed at function block 95500, breakout groups or rooms are initiated at function block 95600 and a session is recorded at 95610 and control is returned to label A 95001. (Page 228, lines 1-6.)

If lessons are to be created as detected at decision block 95310, then presentations are created in function block 95200, create videos in function block 95210, create links as in function block 95220, create a simulation in function block 95230, add materials to the resource center in function block 95240, create assignments in function block 95250 and create tasks in function block 95260 and control is returned to label A 95001. (Page 228, lines 8-20.) Then, via

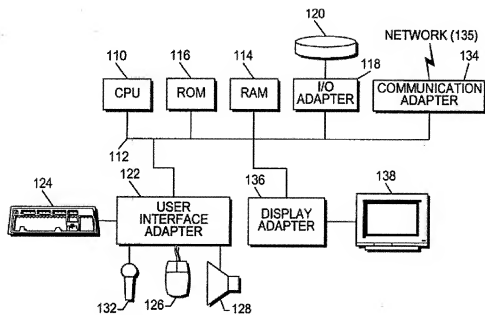
label G 95320, control is passed to a decision block to determine if the traveler desires entry into the resource center. At function block 96100 (as shown in Figure 96 below) materials can be viewed, at function block 96110 past sessions can be viewed, at function block 96120 assignments can be viewed, at function block 96130 Frequently Asked Questions (FAQ)s can be reviewed, at function block 96140 assignments can be submitted, at function block 96150 past tests can be reviewed and at function block 96160 feedback can be submitted to the instructor. Finally, control is returned label 96200 or 96210.

**FIGURE 95**

**FIGURE 96**

Embodiments of the invention may incorporate a personal computer such as an IBM compatible personal computer, Apple Macintosh computer or UNIX based workstation. (Page 11, line 15-page 12, line 2.) (A representative hardware environment is depicted in Figure 1 (as shown below), which illustrates a typical hardware configuration of a workstation in accordance with a preferred embodiment having a central processing unit 110, such as a microprocessor, and a number of other units interconnected via a system bus 112. The workstation shown in Figure 1 includes a Random Access Memory (RAM) 114, Read Only Memory (ROM) 116, an UO adapter 118 for connecting peripheral devices such as disk storage units 120 to the bus 112, a user interface adapter 122 for connecting a keyboard 124, a mouse 126, a speaker 128, a microphone 132, and/or other user interface devices such as a touch screen (not shown) to the bus 112, communication adapter 134 for connecting the workstation to a communication network (e.g., a data processing network) -and a display adapter 136 for connecting the bus 112 to a display device 138. The workstation typically has resident thereon an operating system such as the Microsoft Windows NT or Windows195 Operating System (OS), the IBM OS12 operating system, the MAC OS, or UNIX operating system. Those skilled in the art will appreciate that the present invention may also be implemented on platforms and operating systems other than those mentioned.

Embodiments of the invention may be implemented with JAVA, C, and the CU language and may utilize object oriented programming (OOP) methodology. (Page 12, lines 4-11.) The principles of OOP may be applied to a messaging interface of an electronic messaging system such that a set of OOP classes and objects for the messaging interface can be provided.

***FIGURE 1***

Description of Independent Claims

Independent claim 20 is directed to the method for providing one or more virtual instructors (Page 2, lines 27-31; Page 3, lines 1-5; Page 228, lines 1-6; Page 221, lines 7-9.). A server is connected to the users and a virtual instructor (Page 222, lines 9-19; Figure 87, block 87000.). A destination is selected within the server to interact with the users (Page 222, line 9-19; Figure 87, block 87010; Page 223, lines 8-21), and the users are coupled through the server based on the destination (Page 2, lines 27-31; Page 222, lines 21-28; Figure 87, block 87080; Page 227, lines 18-30; Figure 95, block 95030.). Interaction parameters are established based on the selected destination (Page 2, lines 27-31.). Another virtual instructor is dynamically added with the first virtual instructor and the users (Page 228, lines 1-6; Figure 95, blocks 95300-95600; page 2, lines 27-30 of parent application 09/306,022.) For example, when a user (student) selects instruction (block 95300), a first virtual instructor provides a lecture (block 95400) through a presentation (block 95410). In accordance with collaboration (block 95420) and moderation (block 95500), a second virtual instructor may be dynamically added so that the second virtual instructor can collaborate with the first virtual instructor. Also, a user can select a particular destination within the server to interact with the one or more users establish interaction parameters for the one or more users based on the selected destination and dynamically add a second virtual instructor (Page 2, lines 27-30 of parent application 09/306,022.)

Independent claim 29 is directed to apparatus for providing one or more virtual instructors (Page 2, lines 27-31; Page 3, lines 1-5; Page 228, lines 1-6; Page 221, lines 7-9; Page 11, line 15-page 12, line 2.). Logic connects a server, the users, and a virtual instructor (Page 222, lines 9-19; Figure 87, block 87000.). Logic selects a destination within the server to interact with the users (Page 222, line 9-19; Figure 87, block 87010; Page 223, lines 8-21), and logic

couples the users through the server based on the destination (Page 2, lines 27-31; Page 222, lines 21-28; Figure 87, block 87080; Page 227, lines 18-30; Figure 95, block 95030.). Logic establishes interaction parameters based on the selected destination (Page 2, lines 27-31.). Logic dynamically adds another virtual instructor with the first virtual instructor and the users (Page 228, lines 1-6; Figure 95, block 95420; page 2, lines 27-30 of parent application 09/306,022.) For example, when a user (student) selects instruction (block 95300), a first virtual instructor provides a lecture (block 95400) through a presentation (block 95410). In accordance with collaboration (block 95420) and moderation (block 95500), a second virtual instructor may be dynamically added so that the second virtual instructor can collaborate with the first virtual instructor. Also, a user can select a particular destination within the server to interact with the one or more users establish interaction parameters for the one or more users based on the selected destination and dynamically add a second virtual instructor (Page 2, lines 27-30 of parent application 09/306,022.)

Independent claim 30 is directed a computer program embodied on a computer-readable medium for providing one or more virtual instructors (Page 2, lines 27-31; Page 3, lines 1-5; Page 228, lines 1-6; Page 221, lines 7-9; Page 11, line 15-page 12, line 2; Page 12, lines 4-11.). Code connects a server, the users, and a virtual instructor (Page 222, lines 9-19; Figure 87, block 87000.). Code selects a destination within the server to interact with the users (Page 222, line 9-19; Figure 87, block 87010; Page 223, lines 8-21), and code couples the users through the server based on the destination (Page 2, lines 27-31; Page 222, lines 21-28; Figure 87, block 87080; Page 227, lines 18-30; Figure 95, block 95030.). Code establishes interaction parameters based on the selected destination (Page 2, lines 27-31.). Code dynamically adds another virtual instructor with the first virtual instructor and the users (Page 228, lines 1-6; Figure 95, block

95420; page 2, lines 27-30 of parent application 09/306,022.) For example, when a user (student) selects instruction (block 95300), a first virtual instructor provides a lecture (block 95400) through a presentation (block 95410). In accordance with collaboration (block 95420) and moderation (block 95500), a second virtual instructor may be dynamically added so that the second virtual instructor can collaborate with the first virtual instructor. Also, a user can select a particular destination within the server to interact with the one or more users establish interaction parameters for the one or more users based on the selected destination and dynamically add a second virtual instructor (Page 2, lines 27-30 of parent application 09/306,022.)

VI. Grounds of Rejection to be Reviewed on Appeal

Claims 20-38 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,310,349 (Daniels) in view of U.S. Patent No. 6,029,195 (Herz).

VII. Argument

A. Claims 20-28 are patentable because the combination of Daniels and Herz fails to even suggest every feature.

The combination of Daniels and Herz fails to suggest the feature of “dynamically adding a second virtual instructor with the first virtual instructor and the one or more users.” An obviousness rejection under 35 U.S.C. § 103 is appropriate only when the differences between the claimed invention and the prior art “are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.” *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999); 35 U.S.C. § 103(a) (1999). The ultimate determination of whether an invention would have been obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) any objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 U.S.P.Q. 459, 467 (1966). An obviousness rejection must include some articulated reasoning that makes logical sense. *KSR Int’l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727,1741 (2007). (“To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F.3d 977, 988 (C.A.Fed.2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).”).

The Office Action admits (Page 4.):

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

The Office Action alleges (Page 4.):

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to reach less proficient students based [on the] needs of the students.

Herz does disclose (Column 94, lines 47-67. Emphasis added.):

In one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor. In the classroom application the student may either present questions on-line to the lecturer (throughout the lecture or at pre-designated intervals) or the best ones may be selected by a moderator.

The Office Action further alleges that (Pages 2-3, paragraphs 2-5.):

The applicant's arguments filed on 5/10/2006 with respect to claims 20-38 have been considered but are not persuasive for the following reasons.

Applicant alleges "Herz does not suggest anything about dynamically adding second virtual instructor with the first virtual instructor and the one or more users."

Examiner respectfully disagrees, because Herz discloses the system will recommend the most appropriate on-line lecture either involving a virtual tutor where the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor (that is adding virtual tutors as needed basis on the student needs) (see col. 94, lines 47-67).

Furthermore, Herz discloses "in one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training

requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor.

Herz merely discloses that a student receives a recommendation for an instructor that is best suited for the student. Rather than a second instructor being added with the first instructor, only one instructor is selected for the assignment of teachers based on the needs of the student. A second instructor is not added with the first instructor. Either one instructor or another instructor is selected but not both. Moreover, Daniels fails to remedy the deficiencies of Herz.

Claims 20-28 are patentable over the combination of Daniels and Herz. Thus, the rejections of claims 20-28 under 35 U.S.C. 103(a) should be reversed.

B. Claim 29 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

The combination of Daniels and Herz fails to suggest the feature of “logic that dynamically adds a second virtual instructor with the first virtual instructor and the one or more users.” An obviousness rejection under 35 U.S.C. § 103 is appropriate only when the differences between the claimed invention and the prior art “are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.” *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999); 35 U.S.C. § 103(a) (1999). The ultimate determination of whether an invention would have been obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed

invention and the prior art; and (4) any objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 U.S.P.Q. 459, 467 (1966). An obviousness rejection must include some articulated reasoning that makes logical sense. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727,1741 (2007). ("To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F.3d 977, 988 (C.A.Fed.2006) ("[R]jections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness").").

The Office Action admits (Page 4.):

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

The Office Action alleges (Page 4.):

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to reach less proficient students based [on the] needs of the students.

Herz does disclose (Column 94, lines 47-67. Emphasis added.):

In one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor. In the classroom application the student may

either present questions on-line to the lecturer (throughout the lecture or at pre-designated intervals) **or** the best ones may be selected by a moderator.

The Office Action further alleges that (Pages 2-3, paragraphs 2-5.):

The applicant's arguments filed on 5/10/2006 with respect to claims 20-38 have been considered but are not persuasive for the following reasons.

Applicant alleges "Herz does not suggest anything about dynamically adding second virtual instructor with the first virtual instructor and the one or more users."

Examiner respectfully disagrees, because Herz discloses the system will recommend the most appropriate on-line lecture either involving a virtual tutor where the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor (that is adding virtual tutors as needed basis on the student needs) (see col. 94, lines 47-67).

Furthermore, Herz discloses "in one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor.

Herz merely discloses that a student receives a recommendation for an instructor that is best suited for the student. Rather than a second instructor being added with the first instructor, only one instructor is selected for the assignment of teachers based on the needs of the student. A second instructor is not added with the first instructor. Either one instructor or another instructor is selected but not both. Moreover, Daniels fails to remedy the deficiencies of Herz.

Claim 29 is patentable over the combination of Daniels and Herz. Thus, the rejections of claim 29 under 35 U.S.C. 103(a) should be reversed.

C. Claims 30-38 are patentable because the combination of Daniels and Herz fails to even suggest every feature.

The combination of Daniels and Herz fails to suggest the feature of “code that dynamically adds a second virtual instructor with the first virtual instructor and the one or more users.” An obviousness rejection under 35 U.S.C. § 103 is appropriate only when the differences between the claimed invention and the prior art “are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.” *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614, 1616 (Fed. Cir. 1999); 35 U.S.C. § 103(a) (1999). The ultimate determination of whether an invention would have been obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) any objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 U.S.P.Q. 459, 467 (1966). An obviousness rejection must include some articulated reasoning that makes logical sense. *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727,1741 (2007). (“To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F.3d 977, 988 (C.A.Fed.2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).”).

The Office Action admits (Page 4):

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

The Office Action alleges (Page 4):

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the

system of Daniels such that more proficient teachers in math or reading can be assigned to reach less proficient students based [on the] needs of the students.

Herz does disclose (Column 94, lines 47-67. Emphasis added.):

In one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor. In the classroom application the student may either present questions on-line to the lecturer (throughout the lecture or at pre-designated intervals) or the best ones may be selected by a moderator.

The Office Action further alleges that (Pages 2-3, paragraphs 2-5.):

The applicant's arguments filed on 5/10/2006 with respect to claims 20-38 have been considered but are not persuasive for the following reasons.

Applicant alleges "Herz does not suggest anything about dynamically adding second virtual instructor with the first virtual instructor and the one or more users."

Examiner respectfully disagrees, because Herz discloses the system will recommend the most appropriate on-line lecture either involving a virtual tutor where the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor (that is adding virtual tutors as needed basis on the student needs) (see col. 94, lines 47-67).

Furthermore, Herz discloses "in one approach school activities (from either one or a large number of schools) may be accessible for participation remotely. Classroom lectures, continuing education seminars, conferences, tutorials for job training (or on-going job training requirements) may apply. The most exemplary application however is the virtual classroom. Students may use nearest neighbor indexing to either describe or present a particular topic or problems or a query. The system will recommend the most appropriate on-line lecture either live, if the

student wishes to interact (e.g., recommending the next scheduled time) or the most appropriate pre-recorded lecture. For solutions to problems, a virtual tutor involving (either a live or pre-recorded single (closed) session or multi-student session may be presented similarly) or the student may receive a recommendation of the name of the most skilled or experienced faculty or student recommended tutor.

Herz merely discloses that a student receives a recommendation for an instructor that is best suited for the student. Rather than a second instructor being added with the first instructor, only one instructor is selected for the assignment of teachers based on the needs of the student. A second instructor is not added with the first instructor. Either one instructor or another instructor is selected but not both. Moreover, Daniels fails to remedy the deficiencies of Herz.

Claims 30-38 are patentable over the combination of Daniels and Herz. Thus, the rejections of claims 30-38 under 35 U.S.C. 103(a) should be reversed.

D. Claims 20-28 are patentable because Herz teaches away from the claimed invention.

The Office Action alleges that (Page 4. Emphasis added.):

Herz discloses **teacher load balancing system** including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

As alleged by the Office Action, Herz teaches a load balancing system. Adding a second instructor with a first instructor and users would only increase loading demands on an educational system and thus would be contrary to performing a load balancing function, and thus Herz teaches away from the claimed invention, having the feature of “dynamically adding a second virtual instructor with the first virtual instructor and the one or more users.”

Claims 20-28 are patentable over the combination of Daniels and Herz. Thus, the rejections of claims 20-28 under 35 U.S.C. 103(a) should be reversed.

E. Claims 29 is patentable because Herz teaches away from the claimed invention.

The Office Action alleges that (Page 4. Emphasis added.):

Herz discloses **teacher load balancing system** including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

As alleged by the Office Action, Herz teaches a load balancing system. Adding a second instructor with a first instructor and users would only increase loading demands on an educational system and thus would be contrary to performing a load balancing function, and thus Herz teaches away from the claimed invention, having the feature of “logic that dynamically adds a second virtual instructor with the first virtual instructor and the one or more users.”

Claim 29 is patentable over the combination of Daniels and Herz. Thus, the rejection of claims 29 under 35 U.S.C. 103(a) should be reversed.

F. Claims 30-38 are patentable because Herz teaches away from the claimed invention.

The Office Action alleges that (Page 4. Emphasis added.):

Herz discloses **teacher load balancing system** including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

As alleged by the Office Action, Herz teaches a load balancing system. Adding a second instructor with a first instructor and users would only increase loading demands on an

educational system and thus would be contrary to performing a load balancing function, and thus Herz teaches away from the claimed invention, having the feature of “code that dynamically adds a second virtual instructor with the first virtual instructor and the one or more users.”

Claims 30-38 are patentable over the combination of Daniels and Herz. Thus, the rejections of claims 30-38 under 35 U.S.C. 103(a) should be reversed.

G. Claim 21 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor monitors progress and provides feedback.” The Office Action alleges that (Page 4.):

In considering claim 21, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

However, Daniels fails to teach the feature of “wherein the second virtual instructor monitors progress and provides feedback.” Daniels does disclose (Column 3, lines 25-40.):

Among the functions provided by the present invention are the following:

- 1) deliver a customized sequence of appropriate learning events to each student;
- 2) direct and monitor student progress and various online and offline activities and tailor instruction to fully integrate them into the classroom;
- 3) adapt a standard sequence of curricula and prescribe lessons from third-party materials;
- 4) branch students to appropriate remedial or enrichment activities;
- 5) generate criterion-referenced pretests and post-tests; and
- 6) create, maintain, and update instructional records on each student and electronically transfer records within and between schools.

Daniels fails to teach anything about providing feedback. Daniels also discloses (Column 6, lines 37-64.):

Within the teacher group there are three different subgroups. The first teacher subgroup is that of regular teacher. The regular teacher is limited to access of records of students in sections.

The second teacher subgroup is that of a substitute teacher. A substitute teacher has access to student records for a particular section. Access is restricted only to a particular time period.

The third teacher subgroup is that of media specialist. A media specialist may add and delete access to a card catalog of references (data base information on all books, video tapes, audio tapes, and films used in instruction) that are not specifically kept in the classroom. Productivity tools specifically available in the media center are the card catalog, and may include an electronic encyclopedia such as Compton's Multimedia Encyclopedia, and may include an electronic dictionary such as the Merriam-Webster Dictionary.

The sixth main user access class is that of a vendor. A vendor is a technician who initially installs and configures the system. Configuration may involve activating or suppressing certain features of the system. The vendor may also have access to special system usage or performance reports. They may also have access to helpful system debugging reports. A vendor inputs a report to the IMS describing each visit.

Daniels merely discloses different teacher subgroups accessing different portions of the instructional management system (IMS).

Daniels further discloses: (Column 14, lines 37-64.):

FIG. 20 is a flow chart illustrating the System Monitor functions available in the IMS. The System Monitor gathers information that describes the state of each workstation and then provides that information for the user to view, as shown in FIG. 20. If either view fields 90, sort fields 92, or modify fields 94 are selected, a submenu 96 is presented to allow a user to perform the desired function on user information, workstation information, or application information. If assign temporary activity 98 is selected, a temporary activity is assigned to a student at 100. If view or edit sequence 102 is selected, the sequence may be viewed at 104 and start and end dates assigned at 106. If system log 108 is selected, the system log is displayed

at 110. If maintenance log 112 is selected, the maintenance log is displayed at 114.

The System Monitor presents the state of the system in two formats, a graphical format and a list format. The System Monitor allows the user to specify which workstations to monitor. For the graphical presentation, the user will specify the workstations by selecting which room is to monitor. For the list presentation, the user specifies which workstations are to be monitored by selecting those workstations that have Students that belong to a particular Section or by selecting one or more Rooms. For the list presentation the user may also specify which status items will be used for sorting the information to be displayed.

Daniels merely discloses allowing a user to perform the desired function on user information, workstation information, or application information, including specifying which workstations to monitor.

Claim 21 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 21 under 35 U.S.C. 103(a) should be reversed.

H. Claim 22 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor is selected by the one or more users.”

Also, regarding claim 22, the Office Action alleges that (Page 4.):

In considering claim 22, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor (second teacher) is selected by one [or] more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the second virtual instructor is selected by the one or more users.” Moreover, Daniels fails to suggest anything about selecting a second virtual instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 22 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 22 under 35 U.S.C. 103(a) should be reversed.

I. Claim 23 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor becomes the principal instructor.” The Office Action alleges that (Page 4.):

In considering claim 23, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the second virtual instructor becomes the principal instructor.” Moreover, Daniels fails to suggest anything about an instructor becoming the principal instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 23 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 23 under 35 U.S.C. 103(a) should be reversed.

J. Claim 24 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor works with the first instructor to instruct the one or more users.” The Office Action alleges that (Page 4.):

In considering claim 24, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instructor [instruct] the one or more users (see col. 6, lines 36-63).

Daniels fails to teach the feature of “wherein the second virtual instructor works with the first instructor to instruct the one or more users.” Moreover, Daniels fails to suggest anything about the second virtual instructor working with the first instructor to instruct a user. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 24 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 24 under 35 U.S.C. 103(a) should be reversed.

K. Claim 25 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor collaborates privately with the first virtual instructor.” The Office Action alleges that (Page 4.):

In considering claim 25, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first instructor (col. 6, lines 36-63).

Daniels fails to teach the feature of “wherein the second virtual instructor collaborates privately with the first virtual instructor.” Moreover, Daniels fails to suggest anything about the second instructor collaborating with the first instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 25 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 25 under 35 U.S.C. 103(a) should be reversed.

L. Claim 27 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor is selected by the first virtual instructor.” The Office Action alleges that (Page 4.):

In considering claim 27, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the second virtual instructor is selected by the first virtual instructor.” Moreover, Daniels fails to suggest anything about the first instructor selecting the second instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 27 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 27 under 35 U.S.C. 103(a) should be reversed.

M. Claim 28 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section A, the combination of Daniels and Herz fails to suggest the feature of “wherein the interaction parameters include support for electronic distribution of materials from the second virtual instructor.” The Office Action alleges that (Page 4.):

In considering claim 28, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein [the second virtual instructor] the interaction parameters include support of [for] electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the interaction parameters include support for electronic distribution of materials from the second virtual instructor.” Moreover, Daniels fails to suggest anything about electronic distribution of materials from the second instructor.

Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 28 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 28 under 35 U.S.C. 103(a) should be reversed.

N. Claim 31 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor monitors progress and provides feedback.” The Office Action alleges that (Page 8.):

In considering claim 31, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20 [30], wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

However, Daniels fails to teach the feature of “wherein the second virtual instructor monitors progress and provides feedback.” Daniels does disclose (Column 3, lines 25-40.):

Among the functions provided by the present invention are the following:

- 1) deliver a customized sequence of appropriate learning events to each student;
- 2) direct and monitor student progress and various online and offline activities and tailor instruction to fully integrate them into the classroom;
- 3) adapt a standard sequence of curricula and prescribe lessons from third-party materials;
- 4) branch students to appropriate remedial or enrichment activities;
- 5) generate criterion-referenced pretests and post-tests; and
- 6) create, maintain, and update instructional records on each student and electronically transfer records within and between schools.

Daniels fails to teach anything about providing feedback. Daniels also discloses (Column 6, lines 37-64.):

Within the teacher group there are three different subgroups. The first teacher subgroup is that of regular teacher. The regular teacher is limited to access of records of students in sections.

The second teacher subgroup is that of a substitute teacher. A substitute teacher has access to student records for a particular section. Access is restricted only to a particular time period.

The third teacher subgroup is that of media specialist. A media specialist may add and delete access to a card catalog of references (data base information on all books, video tapes, audio tapes, and films used in instruction) that are not specifically kept in the classroom. Productivity tools specifically available in the media center are the card catalog, and may include an electronic encyclopedia such as Compton's Multimedia Encyclopedia, and may include an electronic dictionary such as the Merriam-Webster Dictionary.

The sixth main user access class is that of a vendor. A vendor is a technician who initially installs and configures the system. Configuration may involve activating or suppressing certain features of the system. The vendor may also have access to special system usage or performance reports. They may also have access to helpful system debugging reports. A vendor inputs a report to the IMS describing each visit.

Daniels merely discloses different teacher subgroups accessing different portions of the instructional management system (IMS).

Daniels further discloses: (Column 14, lines 37-64.):

FIG. 20 is a flow chart illustrating the System Monitor functions available in the IMS. The System Monitor gathers information that describes the state of each workstation and then provides that information for the user to view, as shown in FIG. 20. If either view fields 90, sort fields 92, or modify fields 94 are selected, a submenu 96 is presented to allow a user to perform the desired function on user information, workstation information, or application information. If assign temporary activity 98 is selected, a temporary activity is assigned to a student at 100. If view or edit sequence 102 is selected, the sequence may be viewed at 104 and start and end dates assigned at 106. If system log 108 is selected, the system log is displayed

at 110. If maintenance log 112 is selected, the maintenance log is displayed at 114.

The System Monitor presents the state of the system in two formats, a graphical format and a list format. The System Monitor allows the user to specify which workstations to monitor. For the graphical presentation, the user will specify the workstations by selecting which room is to monitor. For the list presentation, the user specifies which workstations are to be monitored by selecting those workstations that have Students that belong to a particular Section or by selecting one or more Rooms. For the list presentation the user may also specify which status items will be used for sorting the information to be displayed.

Daniels merely discloses allowing a user to perform the desired function on user information, workstation information, or application information, including specifying which workstations to monitor.

Claim 31 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 31 under 35 U.S.C. 103(a) should be reversed.

O. Claim 32 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor is selected by the one or more users.” The Office Action alleges that (Page 8.):

In considering claim 32, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20 [30], wherein the second virtual instructor (second teacher) is selected by one [or] more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the second virtual instructor is selected by the one or more users.” Moreover, Daniels fails to suggest anything about selecting a second virtual instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 32 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 32 under 35 U.S.C. 103(a) should be reversed.

P. Claim 33 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor becomes the principal instructor.” The Office Action alleges that (Page 8.):

In considering claim 33, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20 [30], wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the second virtual instructor becomes the principal instructor.” Moreover, Daniels fails to suggest anything about an instructor becoming the principal instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 33 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 33 under 35 U.S.C. 103(a) should be reversed.

Q. Claim 34 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor works with the first instructor to instruct the one or more users.” The Office Action alleges that (Page 8.):

In considering claim 34, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20 [30], wherein the second virtual instructor works with the first instructor to instructor [instruct] the one or more users (see col. 6).

Daniels fails to teach the feature of “wherein the second virtual instructor works with the first instructor to instruct the one or more users.” Moreover, Daniels fails to suggest anything about the second virtual instructor working with the first instructor to instruct a user. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 34 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 34 under 35 U.S.C. 103(a) should be reversed.

R. Claim 35 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor collaborates privately with the first virtual instructor.” The Office Action alleges that (Pages 8-9.):

In considering claim 35, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20 [30], wherein the second virtual instructor collaborates privately with the first instructor (col. 6, lines 36-63).

Daniels fails to teach the feature of “wherein the second virtual instructor collaborates privately with the first virtual instructor.” Moreover, Daniels fails to suggest anything about the second instructor collaborating with the first instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 35 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 35 under 35 U.S.C. 103(a) should be reversed.

S. Claim 37 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the second virtual instructor is selected by the first virtual instructor.” The Office Action alleges that (Page 9.):

In considering claim 37, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20 [30], wherein the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the second virtual instructor is selected by the first virtual instructor.” Moreover, Daniels fails to suggest anything about the first instructor selecting the second instructor. Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 37 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 37 under 35 U.S.C. 103(a) should be reversed.

T. Claim 38 is patentable because the combination of Daniels and Herz fails to even suggest every feature.

In addition to the arguments presented in Section C, the combination of Daniels and Herz fails to suggest the feature of “wherein the interaction parameters include support for electronic distribution of materials from the second virtual instructor.” The Office Action alleges that (Page 9.):

In considering claim 38, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20 [30], wherein [the second virtual instructor] the interaction parameters include support of [for] electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

Daniels fails to teach the feature of “wherein the interaction parameters include support for electronic distribution of materials from the second virtual instructor.” Moreover, Daniels fails to suggest anything about electronic distribution of materials from the second instructor.

Daniels merely discloses three different teacher subgroups in the teach group without any interaction between the subgroups.

Claim 38 is patentable over the combination of Daniels and Herz. Thus, the rejection of claim 38 under 35 U.S.C. 103(a) should be reversed.

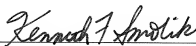
Conclusions

The rejections of claims 20-38 contained in the Final Office Action of February 22, 2007 should be reversed for at least the reasons recited above. Reversal of the rejections is requested.

Respectfully Submitted,

Banner & Witcoff, LTD

Date: January 9, 2008

By: 
Kenneth F. Smolik
Registration No. 44,344
Banner & Witcoff, Ltd.
10 South Wacker Drive
Suite 3000
Chicago, Illinois 60606
Telephone: 312-463-5000
Facsimile: 312-463-5001

CLAIMS APPENDIX

20. A method for providing one or more virtual instructors, comprising the steps of:

- (a) connecting a server and one or more users and a first virtual instructor;
- (b) selecting a destination within the server to interact with the one or more users;
- (c) coupling the one or more users through the server based on the selected destination;
- (d) establishing interaction parameters for the one or more users based on the selected destination; and
- (e) dynamically adding a second virtual instructor with the first virtual instructor and the one or more users.

21. The method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback.

22. The method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor is selected by the one or more users.

23. The method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal instructor.

24. The method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instruct the one or more users.

25. The method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first virtual instructor.

26. The method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more of the users.

27. The method for establishing a virtual instructor as recited in claim 20, wherein the second virtual instructor is selected by the first virtual instructor.

28. The method for establishing a virtual instructor as recited in claim 20, wherein the interaction parameters include support for electronic distribution of materials from the second virtual instructor.

29. An apparatus for providing one or more virtual instructors, comprising:
- (a) logic that connects a server and one or more users and a first virtual instructor;
 - (b) logic that selects a destination within the server to interact with the one or more users;
 - (c) logic that couples the one or more users through the server based on the selected destination;
 - (d) logic that establishes interaction parameters for the one or more users based on the selected destination; and
 - (e) logic that dynamically adds a second virtual instructor with the first virtual instructor and the one or more users.

30. A computer program embodied on a computer-readable medium that provides one or more virtual instructors, comprising:

- (a) code that connects a server and one or more users and a first virtual instructor;
- (b) code that selects a destination within the server to interact with the one or more users;
- (c) code that couples the one or more users through the server based on the selected destination;
- (d) code that establishes interaction parameters for the one or more users based on the selected destination; and
- (e) code that dynamically adds a second virtual instructor with the first virtual instructor and the one or more users.

31. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor monitors progress and provides feedback.

32. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor is selected by the one or more users.

33. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor becomes the principal instructor.

34. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor works with the first instructor to instruct the one or more users.

35. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor collaborates privately with the first virtual instructor.

36. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor leads a breakout session with one or more of the users.

37. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the second virtual instructor is selected by the first virtual instructor.

38. The computer program embodied on a computer-readable medium that providing one or more virtual instructors as recited in claim 30, wherein the interaction parameters include support for electronic distribution of materials from the second virtual instructor.

39. A method for establishing a virtual director that coordinates a training session, comprising the steps of:

- (a) initiating a session with a virtual director;
 - (b) prompting a user to enter a response congruent with a goal;
 - (c) receiving the response to the goal;
 - (d) transmitting the response to the virtual director;
 - (e) calculating a level of congruency between the response and a target response designed to achieve the goal under the supervision of the virtual director;
 - (f) providing feedback to the user reflecting the level of congruency to assist the user in achieving the goal; and
 - (g) providing remedial information to assist the user in achieving the goal;
- wherein at least one of the steps of the method can be executed manually under the supervision of the virtual director.

40. The method for establishing a virtual director that coordinates a training session as recited in claim 39, wherein the user is manually prompted to enter the response congruent with the goal.

41. The method for establishing a virtual director that coordinates a training session as recited in claim 39, wherein the level of congruency is manually calculated.

42. The method for establishing a virtual director that coordinates a training session as recited in claim 39, wherein the feedback to the user is provided manually.

43. The method for establishing a virtual director that coordinates a training session as recited in claim 39, wherein the remedial information to assist the user in achieving the goal is determined manually.

44. The method for establishing a virtual director that coordinates a training session as recited in claim 39, wherein the method is executed on a plurality of servers which are coupled through a computer network.

45. The method for establishing a virtual director that coordinates a training session as recited in claim 44, wherein the computer network supports Internet Protocol (IP).

46. The method for establishing a virtual director that coordinates a training session as recited in claim 44, wherein the computer network includes a Local Area Network (LAN).

47. The method for establishing a virtual director that coordinates a training session as recited in claim 44, wherein the computer network includes a Wide Area Network (WAN).

48. An apparatus for establishing a virtual director that coordinates a training session, comprising:

- (a) logic that initiates a session with a virtual director;
- (b) logic that prompts a user to enter a response congruent with a goal;
- (c) logic that receives the response to the goal;
- (d) logic that transmits the response to the virtual director;
- (e) logic that calculates a level of congruency between the response and a target response designed to achieve the goal under the supervision of the virtual director;
- (f) logic that provides feedback to the user reflecting the level of congruency to assist the user in achieving the goal; and
- (g) logic that provides remedial information to assist the user in achieving the goal, wherein at least one of the logic is executed manually under the supervision of the virtual director.

49. A computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session, comprising:

- (a) a code segment that initiates a session with a virtual director;
- (b) a code segment that prompts a user to enter a response congruent with the

goal;

- (c) a code segment that receives the response to the goal;
- (d) a code segment that transmits the response to the virtual director;
- (e) a code segment that calculates a level of congruency between the response and a target response designed to achieve the goal under the supervision of the virtual director;
- (f) a code segment that provides feedback to the user reflecting the level of congruency to assist the user in achieving the goal; and
- (g) a code segment that provides remedial information including information from the help engine to assist the user in achieving the goal, wherein at least one of the code segments can be executed manually under the supervision of the virtual director.

50. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 49, wherein a user is prompted manually to enter a response congruent with a goal.

51. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 49, wherein the level of congruency is calculated manually.

52. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 49, wherein the feedback to the user is provided manually.

53. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 49, wherein the remedial information to assist the user in achieving the goal is determined manually.

54. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 49, wherein the computer program resides on a plurality of servers which are coupled through a computer network.

55. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 54, wherein the computer network supports Internet Protocol (IP).

56. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 54, wherein the computer network includes a Local Area Network (LAN).

57. The computer program embodied on a computer-readable medium that establishes a virtual director that coordinates a training session as recited in claim 54, wherein the computer network includes a Wide Area Network (WAN).

EVIDENCE APPENDIX

-NONE-

RELATED PROCEEDINGS APPENDIX

- NONE-